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March 15, 1960

COCOM Document No. 3921COORDINATING COMMITTEEMEMORANDUM FROM THE UNITED STATES DELEGATIONONNON-MEMBER COUNTRY COOPERATION AND RELATIONS--AUSTRIASUBCOMMITTEE ON EXPORT CONTROLS

1. At the May 1959 meeting of the Subcommittee on Export Controls it was recommended that there should be a re-examination of Austrian trade controls, particularly with regard to Austrian's participation in the IC/DV procedure (para. 54, COCOM Doc. Sub-C (59) 2). The German delegation suggested at the May meeting that it would be helpful if the Committee could be informed more precisely of the extent to which the Austrian authorities exercise controls over re-exports of goods imported under Austrian IC's. Reports on Austrian IC/DV procedures were last submitted to COCOM in 1954, 1955 and 1958 (COCOM Docs. 1584, 1778, 1884 and 3260).

2. Export licensing in Austria is exercised under the Foreign Trade Law of December 1956 (extended indefinitely Dec. 31, 1959), by the Ministry of Trade and Reconstruction in Vienna. It is understood that the export of any item on the International Embargo List, to any destination, requires an individual export license. It is further understood that re-exports of all commodities of foreign origin, whether embargoed or not, are subject to Austrian export licensing requirements. According to the Austrian authorities, the exporter is required to produce a certificate of origin in the event doubt exists as to the origin of the product. In connection with a question raised by the United Kingdom Delegate in COCOM Doc. 3873, para. 3, the Austrian authorities advise that no special permits are issued for the re-exportation of embargoed goods imported into Austria on the basis of an Austrian IC. Violation of the Austrian export control regulations is punishable under the country's penal code.

3. It is understood that the Austrian Government requires IC's for all exports of International List I commodities to cooperating countries. In accordance with the IC procedure, duplicate copies of IC's issued by other countries and transmitted to the Austrian Government through government channels are matched by the Austrian authorities with the original IC's filed by Austrian exporters for the purpose of checking the authenticity of the original documents. The Austrian Government also requires preclearing documentation from Yugoslavia, Hong Kong, Switzerland, Sweden and elsewhere if available.

4. Under the current Austrian IC procedure, the Ministry of Trade and Reconstruction issues IC's for International List I imports. Duplicate IC's are transmitted by the Ministry through government channels to the governments of member countries. The Austrian authorities advise that IC's are issued only after an applicant for an IC has satisfied the Austrian authorities that he intends to import the shipment into Austria. IC's are not issued for goods in transit through Austria or held in bond in Austria. Applicants for an IC must state the name of the end-user in Austria and the purpose for which the goods are imported. When the Austrian authorities are suspicious of a proposed transaction, the IC is refused or withheld until a satisfactory explanation is obtained from the applicant. Should suspicious circumstances arise after issuance of an IC, the representatives of the exporting country will be warned confidentially by the Austrians through appropriate channels, permitting that country to take the necessary preventive action. At the same time, Austrian officials will inform the applicant that the IC is invalid until a satisfactory explanation is given. The Austrian officials state that they can demand an accounting at any time from an importer on the use

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of IC's issued.

5. The confidential warning system referred to in para. 4 above, was developed for use at a time when the Austrian authorities were not always in a position to refuse applications for IC's (or to later declare issued IC's invalid) even though there was reason to suspect an intention of non-compliance. In such cases, representatives of the countries involved were confidentially warned through appropriate channels. The Austrians state that, under the current Austrian IC/DV procedure, little need exists for the Austrian confidential warning system. It may still be used in rare cases where suspicions arise after the IC has been issued by the Ministry of Trade.

6. The Austrian importer, requiring an IC for the importation of a commodity, must produce a statement under oath declaring his intention to import the goods into Austria for end-use in Austria. He must give a complete description of the products, the name of the supplier, the name of the end-user, and the purpose for which the products are imported. The form of this oath is as follows:

"Further we are obligated to the Federal Ministry of Trade and Reconstruction and to the Federal Chamber of Commerce to produce the requested information and documentation promptly, especially in the case of a subsequent check up on our applications.

"We expressly note that we shall be subject to prosecution for fraud, according to article 197 ff. of the penal law, which in itself might result in the withdrawal of all trade licenses in the case of a successful prosecution, if we do not adhere to the accepted obligations set out in paragraph 1 of this letter or if our declarations are untrue or are so made out as to veil the intention of bringing the said commodities out of the country either through ourselves or through a third party, or if we produce false or forged evidence in the annex of this letter."

Changes in a transaction for which an IC has been issued must be reported to the issuing authorities for their approval. Any falsification of the IC, provided as it is with the Ministerial seal and the signature of a responsible authority, is punishable in accordance with Austrian law.

7. The Austrian delivery verification procedure provides for the issuance of DV's at the request of exporting countries. It is reported that Austrian DV's are issued only on the basis of customs clearance documents indicating entry of the shipment into the Austrian economy. The latter documents are issued at the time of importation following customs inspection. DV's are not issued for goods in bond or in transit.

8. There have been discussions with the Austrians since 1955 regarding the desirability of Austrian cooperation in the TAC scheme, particularly as a country of transit. To date the Austrian Government has not indicated its willingness to cooperate in this scheme. However, since the United States Embassy in Vienna is regarded by the Austrian officials as their liaison with COCOM and with other cooperating countries, the Embassy is in a position to make inquiries of the Ministry of Trade on behalf of any PC regarding any specific strategic shipment known or suspected to be transiting Austria enroute to a Soviet Bloc destination contrary to the wishes of the exporting country. In such a case the Embassy would then ask the Austrian authorities to take informal action to detain or prevent the onforwarding of the embargoed goods in question. It is not certain, however, to what extent Austrian law would permit such action. It is not proposed by the United States at the present time to initiate any further approaches to Austria regarding cooperation in the TAC scheme. The Austrian Government does have one form of transit control, i.e. in case of transit shipments involving

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payments to Austrian businessmen, the transaction must be approved by the Austrian National bank. To obtain approval the applicant must give a written and full description of the proposed transaction to the Ministry of Trade. The Ministry of Trade will not give its approval to the National bank if the transaction would represent a violation of Austrian embargo controls.

9. In general, the United States authorities consider the cooperation of the Austrian Government in export control matters to be satisfactory. However, for geographic and other reasons, the situation in Austria is one which has to be carefully and continually watched. For this reason, the United States Department of Commerce conducts prelicensing and post-transaction checks relating to United States exports to Austria whenever such checks appear to be desirable or necessary.

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